

REMARKS

This is a full and timely response to the outstanding final Office Action mailed September 13, 2005 (Paper No. 09062005). Upon entry of this response, claims 2, 4-5, 8, 10-13, and 17-32 are pending in the application. In this response, claims 2, 4-5, 8, and 13 have been amended, claims 20-32 have been added, and claims 9-12 and 14-17 have been cancelled. Applicant respectfully request that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

1. Rejection of Claims 2, 8-13, and 17-19 under 35 U.S.C. §103

Claims 2, 8-13, and 17-19 have been rejected under §103(a) as allegedly obvious over *Skemer et al.* (6,570,849) in view of “Internetworking Technologies Handbook” by *Downes*. Applicant respectfully submits that the rejection is overcome by claim amendments made herein. It is well established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly, all elements/features/steps of the claim at issue. *See, e.g., In re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claims 2, 8, and 13

Applicant respectfully submit that claim 2 is allowable for at least the reason that the proposed combination of *Skemer et al.* in view of *Downes* does not disclose, teach, or suggest at least the feature of “fragmentation logic configured to: replace a first data value at a first replacement location in the stored Ethernet frame with a first frame identifier, said first replacement location based on said line rate; and transfer a first number of bytes from the start of

the stored Ethernet frame to the WAN transceiver, said number based on said line rate.” Claim 8 is allowable for at least the reason that the proposed combination does not disclose, teach, or suggest at least the feature of “a fragmentation device configured to...calculate a fragmentation size N based on said line rate, and to replace a data value at the Nth byte within the stored Ethernet frame with a first frame identifier, and to transfer the first N+1 bytes of the stored Ethernet frame to a WAN interface.” Claim 13 is allowable for at least the reason that the proposed combination does not disclose, teach, or suggest at least the feature of “labeling the Nth byte from the start of the received Ethernet frame with an identifier marking the end of a fragmented data packet, said identifier indicating where the fragmented data packet fits within the received Ethernet frame, wherein N is based on a line rate of a WAN transceiver coupled to the WAN circuit; transferring N bytes from the start of the received Ethernet frame to the WAN transceiver.”

Skemer et al. discloses a Voice over IP Gateway that includes an IP fragmenter 41 and a TQVoP process 10. The TQVoP 10 includes a dynamic MTU calculator that determines a maximum transmission unit (MTU) based on the number of voice calls and a call density coefficient. The IP fragmenter 41 then fragments IP packets provided by the IP data interface into units of size MTU. The IP packets are interleaved with voice packets and transmitted over the Packet Network Interface 21. (FIG. 2.) However, neither *Skemer et al.* nor *Downes* discloses any details about how packet fragmentation is performed.

In contrast, claims 2, 8, and 13 have been amended to further describe the fragmentation performed by the claimed system, including features such as replacing data values at a specific location within the Ethernet frame with a frame identifier, and transferring a specific number of

bytes within the Ethernet frame to the WAN transceiver, where the specific location and specific number are based on line rate .

Accordingly, the proposed combination of *Skemer et al.* in view of *Downes* does not teach at least the “fragmentation logic configured to: replace a first data value at a first replacement location in the stored Ethernet frame with a first frame identifier, said first replacement location based on said line rate; and transfer a first number of bytes from the start of the stored Ethernet frame to the WAN transceiver, said number based on said line rate.” Since the proposed combination does not teach at least the above-described features recited in claims 2, 8-13, and 17-19, a *prima facie* case establishing an obviousness rejection has not been made. Thus, claims 2, 8-13, and 17-19 are not obvious under the proposed combination of *Skemer et al.* in view of *Downes*, and the rejection should be withdrawn.

b. Claims 9-12

Claims 9-12 and 17 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these claims is therefore rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these cancelled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the cancelled subject matter to the public. Applicant expressly reserves the right to present cancelled claims 9-12 and 17, or variants thereof, in continuing applications to be filed subsequent to the present application.

c. Claims 18-19

Since claim 13 is allowable, Applicant respectfully submits that claims 18-19 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*,

837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully request that the rejection of claims 18-19 be withdrawn.

2. Rejection of Claim 4 under 35 U.S.C. §103

Claim 4 has been rejected under §103(a) as allegedly obvious over *Skemer* (6,570,849) in view of *Doucette et al.* (6,108,346). Applicant respectfully submits that the rejection is overcome by claim amendments made herein. Claim 4 has been amended to depend from base claim 2 through intermediate claim 22. Since claims 2 and 22 are allowable, Applicant respectfully submits that claim 4 is allowable for at least the reason that it depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully request that the rejection of claim 4 be withdrawn.

3. Rejection of Claim 5 under 35 U.S.C. §103

Claim 5 has been rejected under §103(a) as allegedly obvious over *Skemer* (6,570,849) in view of *Doucette et al.* (6,108,346). Applicant respectfully submits that the rejection is overcome by claim amendments made herein. Claim 5 has been amended to depend from base claim 2 through intermediate claim 22. Since claims 2 and 22 are allowable, Applicant respectfully submits that claim 5 is allowable for at least the reason that it depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully request that the rejection of claim 5 be withdrawn.

4. Rejection of Claims 14-16 under 35 U.S.C. §103

Claims 14-16 have been rejected under §103(a) as allegedly obvious over *Skemer et al.* (6,570,849) in view of "Internetworking Technology" by *Downes* and *Kimura et al.* (5,778,189). Claims 14-16 are cancelled without prejudice, waiver, or disclaimer, and the rejection of these

claims is therefore rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these cancelled claims in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the cancelled subject matter to the public. Applicant expressly reserves the right to present cancelled claims 14-16, or variants thereof, in continuing applications to be filed subsequent to the present application.

5. Newly Added Claims

Applicant submits that new claims 20-32 are allowable over the cited references.

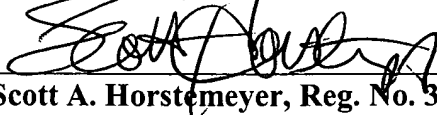
Dependent claims 20-32 are allowable over the cited references for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant requests the Examiner to enter and allow the above new claims.

CONCLUSION

Applicant respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 2, 4-5, 8, 13, and 18-32 be allowed to issue. Any statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If the Examiner has any questions or comments regarding Applicant's response, the Examiner is encouraged to telephone Applicant's undersigned counsel.

Respectfully submitted,

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